



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,234	02/01/2002	Jean-Louis H. Gueret	05725.1017-00	8084

22852 7590 04/14/2006

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
LLP  
901 NEW YORK AVENUE, NW  
WASHINGTON, DC 20001-4413

EXAMINER

LE, HUYEN D

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/060,234	GUERET, JEAN-LOUIS H.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Huyen Le	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,11-17,22-51,60-67,70-83,85-91,96-108,110,112-116,118-121,123,132,133,135-141,144-156,158-164,169-182,184-192,194,203,204,206-212 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

Continuation of Disposition of Claims: Claims pending in the application are 1,3-9,11-83,85-108,110,112-116,118-121,123-128,130-133,135-156,158-182,184-192,194-199,201-204 and 206-214.

Continuation of Disposition of Claims: Claims withdrawn from consideration are 8-21,52-59,68,69,92-95,124-128,130,131,142,143,165-168,195-199,201,202,213 and 214.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-9, 11-17, 22-42, 45-51, 60-67, 70-83, 85-91, 96-108, 110, 112-114, 118-121, 123, 132, 133, 135-141, 144-156, 158-164, 169-182, 184-186, 189-192, 194, 203, 204, 206-212 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray (4,594,835) in view of Hitchcock, Jr. et al (4,519,795).

The gray reference discloses a device comprising a first portion 4 defining a recess 5; a second portion 1 movable with respect to the first portion 4 so as to selectively place the device in one of a closed position and an open position, wherein the first portion 4 and the second portion 1 define a substantially closed reservoir when the device is in the closed position, the application member 10 made of foam and being at least partially compressible and configured such that, when the device is in the closed position, the application member 10 is at least partially compressed inside the substantially closed reservoir and, when the device is moved from the closed position to the open position, the application member becomes substantially uncompressed, wherein the application member is configured so that when the application member is

uncompressed, the application member is capable of being loaded with substantially all of an amount of product that the device is capable of containing (col. 3, lines 4-7).

Although Gray does not disclose that the application member 10 is attached to the second portion 1 by bonding, attention is directed to the Hitchcock, Jr. et al reference which teaches another application device having a pad 14 attached to a plastic strip 12 by an adhesive (col. 2, lines 45-49).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the sachet device of Gray by attaching the application member to the second member (top foil 1) in view of the teaching of the Hitchcock, Jr. reference in a way such that when opening the sachet, the top foil can be peeled off and used as a handle to apply the product on a user without soiling a user's hand.

Regarding claims 60-67, 132, 133, 135-141, 203, 204, 206-212, the method of applying a product to a surface by the device would be inherently performed during the normal use of the Gray application device.

3. Claims 43, 44, 115, 116, 187, 188 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray (4,594,835) in view of Hitchcock, Jr. et al (4,519,795).

Although the Gray reference does not specifically disclose that the sachets are removably joined by a frangible portion, attention is directed to the Hitchcock, Jr. et al reference which teaches a number of sachets 10 removable joined together by a frangible portion (scored or weakness line 38).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made provide weakness lines between the Gray sachets during manufacturing in view of the teaching of Hitchcock, Jr. et al reference to keep a number of sachets together as a unit for easy storage and transport and they can be easily removed for use.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1, 71, 144 filed 12/08/05 have been considered but are moot in view of the new ground(s) of rejection.

5. Regarding applicant's arguments that there would have been no motivation to combine the features of Gray and Hitchcork because any attachment would make it impossible to remove the carrier from the opening in the sachet created by tearing the sachet a V-notch 11, examiner disagrees with the applicant.. Gray does not show the pad attached to the top layer. Hitchcork teaches the pad attached to the top foil by an adhesive. Since Gray and Hitchcork are within the sachet art, it would have been obvious to one of ordinary skill in the art to modify the sachet device of Gray by attaching the application member to the second member (top foil 1) in view of the teaching of the Hitchcock in a way such that when opening the sachet, the top foil can be peeled off and used as a handle to apply the product on a user without soiling a user's hand. Such modification would not destroy the usefulness of the Gray device but rather improve it.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Huyen Le  
Examiner  
Art Unit 3751

April 11, 2006